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| 10/597,684 | 08/03/2006 | Helge Schroder | KFMN0101PUSA | 4864 |
| 22045 7590 02/27/2009 BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075 | | | | |
| EXAMINER CALABRESE, MICHAEL A | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/597,684

Applicant(s)

SCHRODER, HELGE

Examiner

MICHAEL CALABRESE

Art Unit

4117

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/03/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 August 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date 2006/08/16
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show first locking lever (6) as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). It is not apparent from the drawings how the first locking lever is positioned or functions. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required

corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

4. The disclosure is objected to because of the following informalities:

5. The disclosure refers to Fig. 8 and Fig. 9 multiple times. There is no Fig. 8 and Fig. 9 identified in the drawings. It is suggested Fig.8 and Fig.9 be changed to Figures 8a-d and Figures 9a-d respectively.
6. The indexable block reference character is mislabeled 3 on page 13, Line 5.
Appropriate correction is required.

Claim Objections

7. Claim 2 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 1 already discloses the locations of the first and second groove and the interaction between the first web and the locking state. Claim 1 discloses the limitations in lines 1-22 as forming a plane with the upper surface of the worktop while in the locked position; therefore in a position that is the definition of the first plane.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The applicant describes two patentably distinct and mutually exclusive embodiments in claim 1. The first embodiment, best depicted in Figures 8a-d is a work panel, having an axis of rotation in the plane of the upper surface of the work table. The second embodiment, best depicted in Figures 9a-d is a work panel having an axis of rotation below the plane of the upper surface of the work table. The disclosure offers no guidance as to how a person having ordinary skill in the art at the time of the invention could combine the two embodiments into one invention, thus the specification lacks enablement.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
12. Claim 1 recites the limitations:
13. "the upper surface of the worktop" in Line 4,
14. "the area of the axis of rotation" in Line 6,
15. "the locked state" in Line 9,
16. "the second edge" in Line 12,
17. "the edge of the worktop" in Line 16,
18. "the unlocked state" in Lines 19-20,
19. "the web" in Line 20,

20. "the plate segment" in Line 29,

21. "the indexable blocks" in Line 30,

22. "the locking levers" in Line 31,

23. There is insufficient antecedent basis for these limitations in the claim.

24. Also, Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language as claim 1 is directed to two patentably distinct inventions. Lines 1-22, concluding with the phrase "arranged parallel with the upper surface of the worktop," are directed to the first patentable distinct embodiment. Lines 22-31, beginning with the phrase "wherein the worktop segment is present either in a first plane or in a second plane..." are directed to the second patentably distinct embodiment. In the first embodiment, a work panel, having an axis of rotation in the plane of the upper surface of the work table is disclosed. In the second embodiment a work panel, having an axis of rotation below the plane of the upper surface of the work table is disclosed. Further, in the first embodiment, in the locked state, the top surface of the worktop segment always forms a plane with the top surface of the worktop. However, in the second embodiment, when the worktop segment is in the locked position of the second, lower plane, the upper surface of the worktop segment does not form a plane with the upper surface of the worktop. Also, both axes of rotations cannot exist at the same time in the upper and lower planes. For the purpose of further examination, the claim will be treated as only being directed to the first distinct embodiment as described in the specification.

25. It is unclear and confusing as presently worded as to what the limitation "by blocking the axis of rotation of the plate in the indexable blocks" in Lines 29-30 of Claim 1 means.

26. It is unclear and confusing as to what the limitation "the plate segment" in Line 29 of Claim 1 is referring to.

27. It is unclear and confusing as presently worded as to what cases the phrase "in each case" in Lines 2-3 and 6 of Claim 1, Line 3 of Claim 4, and Lines 2-3 of Claims 7 and 8 is referring to. It cannot be determined whether it refers to the number of recesses, or the different embodiments. Art rejections for claims 4, 7, and 8 are being withheld pending further clarification by the applicant as to what embodiment, or case(s), is/are being claimed.

28. Claims 3 and 6 refer to the relationship of the distances between the first and second planes. It is unclear what embodiments are being claimed in respect to the preceding claims. Art rejections for claims 3 and 6 are being withheld pending further clarification by the applicant as to what embodiment, or case(s), is/are being claimed.

29. As for Claims 5 and 9-11, while the claims each refer to locking levers, which are present in both embodiments, structure from the second embodiment, such as the struts described in Line 3 of claim 5 and Line 2 of each claim 9-11 render the claim indefinite because it cannot be determined to which embodiment is being claimed. Art rejections for claims 5 and 9-11 are being withheld pending further clarification by the applicant as to what embodiment, or case(s), is/are being claimed.

30. Claims 1-11 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are replete with indefinite and functional or operational language such as "characterized in that", "exhibits", "executed on", and "capable of". The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. Refer to the claim language in any of the cited prior art for guidance.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Shafro (Pub. No. GB2287207). Shafro discloses a worktable (1) that has at least one recess (See Fig. 12, arrow of reference character 1) with a worktop segment (5, 6) arranged in each recess. He also discloses an axis of rotation (8) running parallel with the upper surface of the worktop (See Fig. 12); the worktop table comprising devices for locking the worktop segment ("The fixing means may comprise any suitable releasable fixing means, such as bolts, clamps, lugs and/or tongue and slot arrangements"); the worktop segment in the area of the axis of rotation in two guides (9) on the work table; and the worktop segment can be displaced on its own or with the rotation axis along the guides parallel to upper surface of the worktop, and the upper surface of the worktop segment in the locked state and the upper surface of the worktop form a plane (See Fig. 1), and a first edge of the worktop segment in the locked state is a part of an outer edge

of the worktop (Side in the plane of 7, Fig. 12), characterized in that the first edge of the worktop segment exhibits a first groove (10 on right side of 5, Fig. 12), the second edge lying opposite this edge (Edge in the plane of 7 on the far side (side of reference character 1), Fig. 12) exhibits a second groove (10 on left side of 5, Fig. 1), and the worktop exhibits a first web (11) which is complementary to the first and second grooves. Shafto also discloses the first web is executed on the edge of the worktop, which in the locked state of the worktop segment is adjacent to the second edge of the worktop segment (Edge adjacent to frontward facing edge of 5 in the plane of 8, the adjacent edge being 11) and wherein in the locked state the first web (11) engages in the second groove (10) (See Fig. 1) and in the unlocked state the engagement between the web and the second groove is released (See Fig. 12), the upper surface of the worktop segment in the locked state is arranged parallel with the upper surface of the worktop (See Fig.1).

Conclusion

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
3. Teroute (FR 2648994) discloses a table with a panel able to be flipped.
4. Ayala et al. (US 6748987) disclose a portable work table.
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL CALABRESE whose telephone number is (571)270-7862. The examiner can normally be reached on Monday - Thursday 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naeem Haq can be reached on (571)270-6758. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. C./
Examiner, Art Unit 4117

/CHARLES A. FOX/
Primary Examiner, Art Unit 3652